

EFILED IN OFFICE
CLERK OF SUPERIOR COURT
UPSON COUNTY, GEORGIA

19V0018

ROBERT M. CRAWFORD, GJC
JAN 18, 2019 12:20 PM

STATE OF GEORGIA

Donna Harper
Treasurer, Clerk
Upson County, Georgia

JEWEL GRACE HARRIS, : CIVIL ACTION FILE

Plaintiff, : NO. _____

VS. : _____

WALMART STORES, INC., : _____

Defendant. : _____

COMPLAINT FOR DAMAGES

Comes now the Plaintiff, JEWEL GRACE HARRIS, and files this, her Complaint for Damages, showing unto the Court the following:

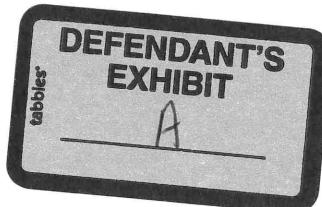
- 1 -

Defendant is a business doing business in the State of Georgia, and may be served with a copy of this Complaint by and through its registered agent, The Corporation Company, located at 112 North Main Street, Cumming, Georgia, 30040.

- 2 -

Said Defendant is subject to the jurisdiction of this Court, pursuant to O.C.G.A. § 14-2-510.

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- 3 -

On or about December 27, 2017, Plaintiff was walking through the Walmart Supercenter in Upson County, Georgia, and slipped and fell because Defendant failed to exercise ordinary care in keeping the premises and approaches safe, pursuant to O.C.G.A. § 51-3-1.

- 4 -

As a result of Defendant's negligence, Plaintiff sustained damages to her knees, back, and hip.

- 5 -

As a direct result and proximate cause of Defendant's negligence, Plaintiff sustained specific damages.

- 6 -

As a direct result and proximate cause of Defendant's negligence, Plaintiff has experienced pain and suffering and will experience pain and suffering in the future.

- 7 -

As a direct result and proximate cause of Defendant's negligence, Plaintiff has incurred medical expenses and will incur future medical expenses.

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Plaintiff is entitled to an award for the foregoing general and specific damages alleged and for all other general and specific damages which are compensable under the laws of this state.

- 9 -

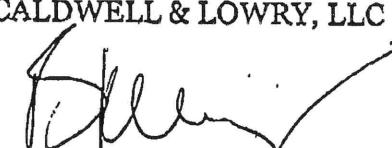
Plaintiff is also entitled to an award of reasonable attorney's fees, court costs, and expenses of litigation.

WHEREFORE Plaintiff prays that:

- a) Summons and process issue as required by law;
- b) Plaintiff have judgment against Defendant for general and specific damages, attorney's fees and expenses of litigation in the amount of \$90,000; and,
- c) Plaintiff have such other and further relief as the Court deems necessary and just.

This the 18th day of January, 2019.

CALDWELL & LOWRY, LLC


BREE KELLETT LOWRY
Georgia Bar No. 297982
Attorney for Plaintiff

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IN THE SUPERIOR COURT OF UPSON COUNTY
STATE OF GEORGIA

JEWEL GRACE HARRIS,

Civil Action File No.
19V0018

Plaintiff,

v.

WALMART STORES, INC.,

Defendant.

ANSWER OF DEFENDANT

COMES NOW, Defendant WALMART STORES, INC. (erronously named)

and makes this Answer to Plaintiff's Complaint as follows:

FIRST DEFENSE

Walmart Stores, Inc. is not the proper Defendant.

SECOND DEFENSE

Jurisdiction is not proper as to Walmart Stores, Inc.

THIRD DEFENSE

Venue is not proper as to Walmart Stores, Inc.

FOURTH DEFENSE

Plaintiff has failed to join an indispensable party.

FIFTH DEFENSE

Plaintiff's Complaint fails to state a claim against Defendant upon which relief

can be granted.

SIXTH DEFENSE

Plaintiff's alleged damages, if any, were directly and proximately caused by Plaintiff's own contributory negligence and failure to exercise ordinary care.

SEVENTH DEFENSE

Plaintiff was not in the exercise of ordinary care for her own safety in the premises, and by the exercise of ordinary care could have avoided any injury to herself; and on account thereof, Plaintiff is not entitled to recover from Defendant.

EIGHTH DEFENSE

Defendant denies that it was negligent in any manner whatsoever or that any negligent act or omission on its part caused or contributed to any injury or damage alleged to have been sustained by Plaintiff.

NINTH DEFENSE

Plaintiff assumed the risk of any hazard that was presented and is thereby barred from recovering against Defendant.

TENTH DEFENSE

Plaintiff's claims for attorney's fees should be dismissed as a matter of law.

ELEVENTH DEFENSE

Defendant responds to the enumerated paragraphs of Plaintiff's Complaint

as follows:

1.

Defendant admits the allegations contained in paragraph 1 of the Plaintiff's Complaint, but shows that Walmart Stores, Inc. is not the proper Defendant.

2.

Defendant denies the allegations contained in paragraph 2 of the Plaintiff's Complaint.

3.

Defendant denies the allegations contained in paragraph 3 of Plaintiff's Complaint.

4.

Defendant denies the allegations contained in paragraph 4 of the Plaintiff's Complaint.

5.

Defendant denies the allegations contained in paragraph 5 of the Plaintiff's Complaint.

6.

Defendant denies the allegations contained in paragraph 6 of the Plaintiff's Complaint.

7.

Defendant denies the allegations contained in paragraph 7 of the Plaintiff's Complaint.

8.

Defendant denies the allegations contained in paragraph 8 of the Plaintiff's Complaint.

9.

Defendant denies the allegations contained in paragraph 9 of the Plaintiff's Complaint.

10.

All other allegations contained in the Complaint which are not specifically responded to herein, are, therefore, denied.

11.

Defendant denies Plaintiff's prayer for relief, including subparagraphs a), b) and c) thereof.

WHEREFORE, Defendant prays that Plaintiff's Complaint be dismissed with all costs cast upon the Plaintiff. DEFENDANT DEMANDS TRIAL BY A JURY OF TWELVE (12) PERSONS AS TO ALL ISSUES SO TRIABLE.

McLAIN & MERRITT, P.C.

/s/ Howard M. Lessinger
Howard M. Lessinger
Georgia Bar No. 447088

/s/ Ernest L. Beaton, IV
Ernest L. Beaton, IV
Georgia Bar No. 213044
Attorneys for Defendant
WALMART STORES, INC.

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Atlanta GA 30326
(404) 365-4514
(404) 364-3138 (fax)
hlessinger@mmatllaw.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing ANSWER OF DEFENDANT WALMART STORES, INC. has this day been filed and served upon opposing counsel via Peach Court E-File.

This the 18th day of April, 2019.

McLAIN & MERRITT, P.C.

/s/ Howard M. Lessinger
Howard M. Lessinger
Georgia Bar No. 447088
Attorney for Defendant
WALMART STORES, INC.

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